



Office of the Attorney General

State of Texas

September 25, 1992

DAN MORALES
ATTORNEY GENERAL

Ms. Helen M. Gros
Assistant City Attorney
City of Houston
P. O. Box 1562
Houston, Texas 77251-1562

OR92-574

Dear Ms. Gros:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, article 6252-17a, V.T.C.S. Your request was assigned ID# 17415.

The City of Houston (the city) received an open records request for certain records that you contend may be withheld from the public pursuant to section 3(a)(3) of the Open Records Act. To secure the protection of section 3(a)(3), a governmental body must demonstrate that requested information "relates" to a pending or reasonably anticipated judicial or quasi-judicial proceeding. Open Records Decision No. 551 (1990). In this instance you have made the requisite showing that the requested information relates to pending litigation; the requested records may therefore be withheld pursuant to section 3(a)(3), with the following exceptions.

Once information has been obtained by all parties to the litigation, *e.g.* through discovery or otherwise, no section 3(a)(3) interest exists with respect to that information. Open Records Decision Nos. 349, 320 (1982). To the extent that the opposing party in the litigation has previously seen or had access to any of the records you submitted to this office, there would be no justification for now withholding that information from the requestor pursuant to section 3(a)(3). Accordingly, the city must release all correspondence between the city and Southwest Houston Tire Sales, Inc.

We also note that because section 3(a)(3) protects only information that is relevant to the litigation, this section is inapplicable to documents that the presiding

judge has ruled undiscoverable because they lack relevance to the lawsuit. Finally, the applicability of section 3(a)(3) ends once the litigation has been concluded. Attorney General Opinion MW-575 (1982); Open Records Decision No. 350 (1982).

Because case law and prior published open records decisions resolve your request, we are resolving this matter with this informal letter ruling rather than with a published open records decision. If you have questions about this ruling, please refer to OR92-574.

Yours very truly,



Kay Hamilton Guajardo
Assistant Attorney General
Opinion Committee

KHG/RWP/lmm

Ref.: ID# 17415

Enclosures: Submitted documents

cc: Mr. Ronald C. Lewis
Baker & Botts
One Shell Plaza
910 Louisiana
Houston, Texas 77002-4995